

REMARKS

The comments of the applicant below are each preceded by related comments of the examiner (in small, bold type).

1. The disclosure is objected to because it contains an embedded hyperlink and/or other form of browser-executable code. Applicant is required to delete the embedded hyperlink and/or other form of browser-executable code. See MPEP § 608.01.

The specification has been amended to make the web addresses non-executable. The applicant notes that two of the web sites referenced are no longer available on-line. Printouts of those web pages as they appeared prior to the filing of the application, as archived at web.archive.org, are included in the IDS accompanying this reply.

2. Claim 13 is objected to because of the following informalities: The claim does not contain the required transitional phrase. Applicant is advised to distinguish the body of the claim from the preamble with a proper transitional phrase.

Appropriate correction is required.

Claim 13 has been amended.

3. Claims 1-12 AND 14-28 are rejected because the claimed invention is directed to non-statutory subject matter. The rejected claims lack technological art and are not directed to any one of the areas of patentable subject matter, such as product, process, process of making or composition.

The claims have been amended.

The applicant calls the examiner's attention to the Board of Patent Appeals and Interferences recent precedential opinion in *Ex parte Lundgren*, 2004 WL 3561262, Appeal No. 2003-2088, (BPAI 2005). The Board held that "there is currently no judicially recognized separate 'technological arts' test to determine patent eligible subject matter under § 101," and declined to create one. *Id.* at 9. It held that a rejection on such grounds could not be sustained. *Id.*

As in *Ex parte Lundgren*, the rejected claims are directed towards a process which produces a particular result (e.g., a "circular visualization element," as in claim 1), not towards a law of nature, physical phenomena, or abstract idea, noted in that case as the only "judicially recognized exceptions to date to § 101." *Id.* at 6. Claim 1 does not claim a "specific abstraction, law of nature, or natural phenomenon" and thus cannot be properly rejected even under the Interim Guidelines for Examination of Patent Applications for Patent Subject Matter Eligibility as reported at http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/guidelines101_20051026.pdf, page 23.

4. Claims 1-13 are rejected under 35 U.S.C. 103(a) as being disclosed by Gatto (US PreGrant Publication 2003/0065601 A1) in view of Applicant disclosed prior art, Official Notice and Jones et al. (US Patent 6,021,397).

Re. Claim 1, Gatto discloses a method comprising displaying to a user the measurements, analysts and tracking of past performance of financial assets such as securities. Gatto further discloses allowing a user to choose from a multitude of predetermined analysis parameters and metrics for calculation and visualization for a plurality of time periods (Abstract II. 1-3. 18-21). Gatto also discloses the use of overlays in graphic visualization displays ([0024], [0025], [0026], [0027]), Gatto does not explicitly disclose displaying to a user a circular visualization element having sectors arranged around a center of the element, the sectors respectively corresponding to different groups of assets, in each of the sectors, displaying an array of visual elements representative of respective assets belonging to the group to which the sector corresponds, the visual elements being arrayed with respect to distance from the center in accordance with magnitudes of performance of the assets during a recent period.

However, the use of circular elements is well known, as is the display of multiple parameters or metrics within a single display, whether circular, rectangular, x/y axis, multi dimensional and so forth. Also well known is using a linear scale emanating from a circle's center outward on the radials with scale values represented in various ways, such as hash marks on the radials or as full circles which automatically intersect with every radial.

Circular visualizations can be divided into sectors which are well known, one well known version of which is a pie

chart disclosed by Jones which could readily be used to present different groups of asset securities (Col. 1, l. 37).

It would have been obvious to an ordinary practitioner of the art at the time of Applicant's invention to have applied the disclosure of Gatto with that of Jones, Applicants admitted prior art and with the well known visualization display techniques of circular visualization elements having sectors arranged around a center of the element and having additional metrics incorporated into each sector, motivated by the desire to provide users with improved tools for effectively viewing historical estimates, projections and recommendations regarding financial assets such as securities (Gatto, [0008]).

The applicant does not agree with the examiner's conclusions. The law requires that if all elements of a claim are not found in a single reference, there must have been some suggestion to combine the elements that are found in different references. *See In re Vaeck*, 947 F.2d 488, 493 (Fed. Cir. 1991); *In re Fine*, 837 F.2d 1071, 1073 (Fed. Cir. 1988). The examiner has not identified a suggestion to combine the cited references. The desire to provide users with improved tools for viewing the data of Gatto is not a suggestion to combine it with any specific types of visualization elements. Moreover, the examiner has not identified any actual prior art describing or suggesting the combination of the various different graph elements combined in the claimed visual display, for example, "in each of the sectors, displaying an array of the visual elements representative of respective assets belonging to the group to which the sector corresponds." None of the cited references nor the allegedly well-known techniques of graphing data, in general, describe or would have made obvious displaying the relevant data using the combination of "sectors [corresponding to different groups of assets] arranged around a center of the element," "an array of visual elements representative of the [assets for each sector]," and the "elements being arrayed with respect to distance from the center in accordance with magnitudes of performance of the assets during a recent period."

5. Claims 14-16, 18,19,22 and 23 are rejected under 35 U.S.C. 103(a) as being disclosed by Makivic (US Patent 6,061.662) in view of Official Notice.

Re. Claim 14, Makivic discloses a method of displaying of probability information concerning the future value of a financial security. Makivic does not explicitly disclose a method comprising displaying to a user a visualization

element that indicates the odds of a performance measure of an asset being within specified ranges of identified values of the performance measure at a succession of times in the future. However, a probability of a future event is the same as the odds of a future event. It would have been obvious to an ordinary practitioner of the art at the time of Applicant's invention that a probability has to relate to the odds of some specific measure or range which is less than the possibility of all future outcomes, which are 1 or 100%. Therefore, an ordinary practitioner of the art would have found it obvious to use the disclosure of Makivic to display probability information of a certain range of future performance outcomes of a financial asset, motivated by an increased demand for on-line services in the area of investment decision support resources (Makivic, Col. 2. 11. 50-53) .

Claim 14 has been amended for clarity. The applicant agrees that probability is the same as odds. However, the mere display of probability information concerning the future value of a security, as in Makivic, does not describe and would not have made obvious displaying elements that indicate the odds of such a value "being within displayed ranges of identified values ... at a succession of times in the future." An "increased demand for on-line services in the area of investment decision support resources" did not suggest or motivate such specific a manner of displaying information as is claimed. The examiner has not identified any suggestion to combine the method of Makivic with anything else to achieve the claimed method, nor has he identified any prior art reference actually containing the claimed elements. (See MPEP § 2143, "the prior art reference (or references when combined) must teach or suggest all the claim limitations") The applicant respectfully requests that the examiner identify what specific teachings in the prior art disclose the claimed visualization elements and make their combination obvious, so that the applicant can respond more specifically.

Re. Claim 18, Makivic does not explicitly disclose a method in which the visualization element include stripes superimposed on a graph of the performance measure over time, each of the stripes representing one of the specified ranges. However, the superimposing of stripes on a graph is a well known way of distinguishing and highlighting data on a graphic display. Therefore, an ordinary practitioner of the art would have found it obvious to combine the disclosure of Makivic with the well known technique of superimposing of stripes on a graph in order to display performance measure over time, motivated by an increased

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demand for on-line services in the area of investment
decision support resources (Makivic. Col. 2, 11. 50-53).

All of the dependent claims are patentable for at least the reasons for which the claims on which they depend are patentable.

Canceled claims, if any, have been canceled without prejudice or disclaimer.

Any circumstance in which the applicant has (a) addressed certain comments of the examiner does not mean that the applicant concedes other comments of the examiner, (b) made arguments for the patentability of some claims does not mean that there are not other good reasons for patentability of those claims and other claims, or (c) amended or canceled a claim does not mean that the applicant concedes any of the examiner's positions with respect to that claim or other claims.

Enclosed is a \$250 check for excess claim fees. Please apply any other charges or credits to deposit account 06-1050, reference 11910-003001.

Respectfully submitted,

Date: _____

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